Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
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Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz	)	ET Docket No. 10-142

REPLY COMMENTS OF NEW DBSD SATELLITE SERVICES G.P.

NEW DBSD SATELLITE SERVICES G.P.,
DEBTOR-IN-POSSESSION
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TABLE OF CONTENTS

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I. INTRODUCTION AND SUMMARY

New DBSD Satellite Services G.P., Debtor-in-Possession ("DBSD"), submits these reply comments regarding the notice of proposed rulemaking and notice of inquiry in the above-captioned proceeding.[1]

The record demonstrates strong support for the twin objectives of both this rulemaking and the National Broadband Plan ("Broadband Plan") to ensure the development of robust mobile satellite service ("MSS") capabilities and increased spectrum availability for mobile broadband networks.[2] Achieving both objectives will create substantial public interest benefits, including attracting additional capital investment for the deployment of wireless broadband networks, reducing network deployment costs and consumer prices, enhancing competition, stimulating innovation and job creation across the wireless broadband ecosystem, providing new

[1] *See Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, Notice of Proposed Rulemaking and Notice of Inquiry, 25 FCC Rcd 9481 (2010) ("*NPRM/NOI*"). All comments filed in this proceeding on September 15, 2010, hereinafter will be short cited.

[2] *See, e.g.,* Comments of DBSD at 2; Comments of MSS ATC Coalition at 1-2; Comments of Cricket at 2-4; Comments of CTIA at 1-2.

capabilities to public safety agencies, and ensuring deployment of essential primary communications and broadband services to all areas, including rural and unserved areas.[3]

Notably, the commenters in this proceeding overwhelmingly support the Commission's proposals to (1) apply secondary market leasing framework to MSS spectrum leasing for terrestrial services; and (2) add co-primary terrestrial fixed and mobile allocations to the 2 GHz MSS band.[4] The broad support for these proposals demonstrate that measures designed to remove regulatory obstacles and provide additional flexibility in spectrum use offer the best and most direct means to achieve the objectives of this rulemaking and the Broadband Plan.

On the other hand, proposals seeking to maintain existing or imposing additional regulatory obstacles or restrictions on MSS spectrum use, particularly those submitted in response to the *NOI* portion of the *NPRM*/*NOI*, will not achieve the Commission's twin objectives or the numerous public interest benefits that flow from advancing those objectives. Consequently, the Commission should reject those proposals. Instead, the Commission promptly should adopt its *NPRM* proposals and initiate further proceedings to remove regulatory barriers to greater investment in and use of the MSS bands.

II. THE RECORD STRONGLY SUPPORTS APPLYING SECONDARY MARKET LEASING RULES TO TERRESTRIAL USE OF MSS SPECTRUM

Commenters representing diverse interests, including MSS operators and customers, terrestrial mobile carriers, and technology companies, strongly and unequivocally support applying secondary market leasing rules and policies to terrestrial use of MSS spectrum.[5] For

[3] *See, e.g.,* Comments of DBSD at 2-3; Comments of MSS ATC Coalition at 1-2; Comments of CTIA at 15-16.

[4] *See, e.g.,* Comments of MSS ATC Coalition at 12-13; Comments of Cricket at 4-9; Comments of AT&T at 5-8; Comments of LightSquared at 8-9.

[5] *See, e.g.,* Comments of MSS ATC Coalition at 13-14, Comments of Mobile Satellite Users Association ("MSUA") at 4; Comments of AT&T at 7-8.

example, CTIA notes that "[a]s these rules have promoted significant public interest benefits, there is no reason why they should not also be extended to MSS licensees."[6] AT&T states that applying secondary market rules to MSS spectrum leasing for terrestrial services is "an efficient means of moving spectrum to higher-valued uses, so long as there are no arbitrary restrictions placed on licensees' leasing rights."[7] TIA asserts that doing so "will create regulatory certainty and encourage innovative arrangements that can speed wireless broadband to rural and other areas."[8] TerreStar adds that "secondary markets procedures have a proven track record and have worked well."[9]

Additionally, nearly all commenters addressing the issue urge the Commission to apply all secondary market leasing options, including *de facto* transfer leasing, to MSS spectrum leasing for terrestrial services.[10] Although Inmarsat suggests that *de facto* transfer leasing should be precluded to ensure the MSS licensee's ability to coordinate with ATC operations and avoid harmful interference,[11] its concerns can be addressed under the existing secondary market framework.

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[6] *See* Comments of CTIA at 12.

[7] *See* Comments of AT&T at 8.

[8] *See* Comments of TIA at 6-7.

[9] *See* Comments of TerreStar at 5.

[10] *See, e.g.,* Comments of Cricket at 7 ("Limiting spectrum leasing to spectrum manager leasing in the MSS bands risks placing an artificial limit on the benefits that can accrue from robust secondary markets in spectrum."); Comments of LightSquared at 8 ("To this end, the Commission should not, at the outset, exclude a subset of leasing policies and rules on the assumption that they may be incompatible with other Commission policies and rules."); Comments of TerreStar at 5-6 ("TerreStar sees no reason to make the rules more restrictive for MSS than for Wireless Radio Services; *de facto* leases can be structured to ensure compliance with any relevant Commission rules or policies."); Comments of T-Mobile at 5 ("there is no reason to limit the types of leases available in the MSS bands.").

[11] *See* Comments of Inmarsat at 10.

As the Commission noted in adopting the secondary market leasing rules, the licensee under a *de facto* transfer lease "may impose other terms and conditions on the lessee, as agreed to by the parties."[12] The Commission further stated that a *de facto* transfer lease "does not involve a complete and permanent transfer of control, and the licensee retains *de jure* control of the license as well as some degree of actual control, such that it retains some responsibility to the Commission for operations on spectrum encompassed within its license."[13] Moreover, if an interference or other technical performance issue arises, the Commission "will *first* approach the authorized spectrum lessee,"[14] and "[i]f and when necessary … will also approach the licensee to assist in resolving such issues."[15] Thus, Inmarsat's concerns regarding the risk of harmful interference under *de facto* transfer leasing are already addressed by the existing rules.

III. THE RECORD STRONGLY SUPPORTS ADDING TERRESTRIAL ALLOCATIONS TO THE 2 GHz MSS BAND

Nearly all commenters urge the Commission to add co-primary terrestrial fixed and mobile service allocations to the 2 GHz MSS band.[16] Commenters generally agree that these allocations will lay the groundwork for increased investment in and use of MSS spectrum.[17]

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[12] *See Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets*, Report and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 20604, ¶ 13 (2003).

[13] *Id.* ¶ 136.

[14] *Id.* ¶ 138.

[15] *Id.* ¶ 138 n.299.

[16] *See* Comments of DBSD at 12-13; Comments of EchoStar at 4; Comments of Iridium at 9; Comments of TerreStar at 4; Comments of AT&T at 5-6; Comments of Cricket at 4-5; Comments of CTIA at 10; Comments of LightSquared at 11-12; Comments of T-Mobile at 2-4; Comments of USCC at 5-6; Comments of Verizon Wireless at 3-4; Comments of CDMA Development Group at 3-4; Comments of TIA at 5-6.

[17] *See, e.g.,* Comments of DBSD at 8 (terrestrial allocations "will lay the groundwork for providing 2 GHz MSS licensees the ability to develop and deploy hybrid satellite/terrestrial communications networks that, through efficient use of spectrum, can meet the growing demand

Commenters further agree that the terrestrial allocations will provide for globally harmonized spectrum, which in turn will offer substantial public interest benefits, particularly as it will improve the business case for broadband deployment,[18] including stimulating market efficiencies across the entire wireless broadband ecosystem (*e.g.,* MSS/ATC network infrastructure, user devices, and content), a key objective of this proceeding and the Broadband Plan.

Many commenters agree, however, that prohibiting re-assignment of returned or cancelled 2 GHz MSS spectrum could reduce the amount of spectrum allocated for MSS both domestically and internationally, and deny the very flexibility that the Commission has found that MSS licensees need in order to respond to market guidance regarding the optimal use of the spectrum.[19] Existing 2 GHz MSS systems can operate across the entire 2 GHz MSS band and

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for broadband wireless services"); Comments of AT&T at 5-6 (terrestrial allocations are "an appropriate first step to bringing additional flexibility to the band and to expanding terrestrial use of the MSS frequencies").

[18] *See, e.g.,* Comments of DBSD at 12 (globally harmonized spectrum offers "opportunities for standardized services, economies of scale, and reductions in service costs"); Comments of TerreStar at 4 ("Regulatory harmonization creates an attractive investment environment."); Comments of AT&T at 6 (This international interference protection provides important certainty to potential investors and promotes standard-setting and global use of the spectrum for mobile broadband services, leading to development of economies of scale and further innovation.); Comments of CDMA Development Group at 4 (global harmonization "will foster continued growth, expansion, and new opportunities for mobile broadband services").

[19] *See* Comments of DBSD at 13; Comments of TerreStar at 10 ("Rather than having a *per se* rule against using spectrum associated with a cancelled license to provide MSS services, the Commission should evaluate each case on its individual merits."); Comments of MSUA at 3 ("[T]he FCC should consider not only whether returned [2 GHz MSS] spectrum could be used for terrestrial mobile broadband deployment, but also whether any alternatives exist which would also allow satellite services to be offered in that band …. [S]atellites have already been built and launched to operate in … globally-harmonized MSS spectrum … and it would … not be in the interests of potential MSS users and the wider public to allow this $1.5 billion of investment to go to waste.").

thus could offer immediately greater capacity if additional 2 GHz MSS spectrum becomes available.[20]

IV. THE COMMISSION SHOULD CONSIDER ADDITIONAL MEASURES TO INCREASE UTILIZATION, INNOVATION, AND INVESTMENT IN MSS SPECTRUM

A. The Commission Should Move Swiftly to Commence Further Proceedings to Remove Unwarranted Obstacles to Investment in MSS-based Services

In view of ample support in the record,[21] the Commission should move forward immediately to modify ATC gating restrictions that serve as regulatory barriers to greater investment in and deployment of broadband services in the MSS bands. As several commenters acknowledge, ATC gating criteria raise the cost of deploying MSS/ATC networks and therefore serve as barriers to immediate and optimal use of the spectrum for broadband services and consumer choice.[22] Delay in commencing proceedings to modify these restrictions will hinder

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[20] DBSD invested significant extra effort and expense in the design and construction of the G1 satellite, the Ground-Based Beam Forming system, and gateway to ensure full duplex services are available throughout the entire 2 GHz MSS band. DBSD built this flexibility into its system to be able to adapt to changes in assignments and spectrum availability within the 2 GHz MSS band.

[21] *See* Comments of DBSD at 15 ("[T]he Commission should promptly initiate further proceedings to consider relaxing the ATC gating criteria in order to ensure optimal use of the spectrum, stimulate additional capital investments, and facilitate deployment of new and innovative services."); Comments of Cricket at 2 (ATC gating criteria "may have been appropriate at the time, but technological developments and consumer demands have leapfrogged past the ideas behind these restrictions. Cricket therefore encourages the Commission to relax the gating requirements for ATC services"); Comments of TerreStar at 7 ("renewed consideration of the issues will show that certain elements of the gating criteria have become more of a limitation than an incentive to provide substantial satellite service"); Comments of Inmarsat at 32 ("The Commission also should consider whether the ATC gating criteria themselves could be relaxed to permit more flexible service arrangements using MSS spectrum, while still maintaining the integrity of MSS operations and protecting against the possibility of harmful interference.").

[22] *See, e.g.,* Comments of Cricket at 9-13 ("Failure to remove ATC Gating causes delay of access by operators and consumers."); Comments of DBSD at 15 (ATC gating criteria "impose

investment, along with the services, job creation, and economic growth that otherwise would follow. It also will stifle U.S. leadership in the mobile broadband market.

To ensure robust MSS capabilities and increase spectrum availability for mobile broadband networks, and to provide consumers with a range of service and price options, the Commission should consider modifying certain ATC gating criteria to enable more economic and innovative combinations of satellite and terrestrial services. DBSD and other MSS providers have developed or are in the process of developing integrated devices capable of operating on both satellite and terrestrial networks, as well as providing associated hybrid satellite/terrestrial service offerings. However, in order to stimulate the development of more robust, ubiquitous, and complementary terrestrial broadband services, MSS licensees should be allowed to share in the economies of scale and market options afforded other terrestrial offerings. Removing gating criteria that raise costs and impose artificial barriers also will enable various business combinations in the MSS bands that will lead to increased investment and availability of spectrum for mobile broadband services to a wider consumer market.[23]

The Commission should avoid adopting rules that lead to inefficient or wasted investment. The Broadband Plan emphasizes that efficient use of spectrum consistent with the public interest "will maximize its value to society [by] lower[ing] network deployment costs, making it easier for new companies to compete and enabling lower prices, more investment and

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significant additional costs that otherwise could be invested in expediting deployment of new and innovative services").

[23] FCC, *Connecting America: The National Broadband Plan* at 88 (Mar. 16, 2010) ("So far, the ATC gating criteria have made it difficult for MSS providers to deploy ancillary terrestrial networks, as well as to establish partnerships with wireless providers or other well-capitalized potential entrants.").

better performance."[24] The record provides ample evidence that ATC gating criteria impose costs that are unnecessarily burdensome and prevent or delay broadband deployment.[25] ATC gating criteria impose significant additional costs that otherwise could be invested in expediting deployment of new and innovative services. These regulatory burdens adversely affect DBSD, and as a result it faces significant challenges to commercial deployment, despite having spent hundreds of millions of dollars developing one of the most advanced and innovative MSS/ATC systems.

The Commission promptly should initiate a proceeding to review the ATC operational rules and gating criteria to provide the necessary relief to enable the provision of MSS and integrated MSS/ATC services. Specifically, the Commission should review certain ATC gating requirements, such as those regarding spare satellites, dual-mode handsets, and geographic coverage, which commenters have identified as warranting further consideration.[26]

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[24] *Id.* at 9-10. Further, "[b]y ensuring spectrum is allocated and managed as efficiently as possible, the government can help reduce the costs borne by firms deploying network infrastructure, thus encouraging both competitive entry and increased investment by incumbent firms." *Id.* at 29.

[25] *See, e.g.,* Comments of Cricket at 3, 10 ("Requiring an in-orbit or launch-ready spare satellite merely adds hundreds of millions of dollars to upfront costs for MSS/ATC business plans without any commensurate benefit for the public …. Dual-mode handsets and broadband terminals, of course, are complex and costly" and not all consumers will want the options of such devices.); Comments of LightSquared at 10 ("The ground spare satellite requirement, then, is an unnecessary and costly measure, and the Commission should eliminate it."); Comments of TerreStar at 8 ("the most likely impact of the spare satellite obligation for a company like TerreStar is that a very significant amount of cost is sunk in building a satellite, which is then tied up for years (with ongoing costs for storage), limiting funds that might otherwise be available for service-related investment and innovation.").

[26] *See, e.g.,* Comments of Globalstar at 10-14; Comments of Cricket at 11-12; Comments of LightSquared at 9. The Commission also should consider whether the application of any other of its ATC gating criteria or service rules to the deployment of satellite and terrestrial advanced wireless technologies could be modified to ensure optimal deployment of broadband services in the MSS bands.

For example, the ground spare requirement necessitates a specific, and likely inefficient, solution to a different requirement, that of service continuity. DBSD recognizes the importance of service continuity, but believes that the Commission's objectives can be met without requiring the substantial development of a ground spare before ATC services can commence. There are significant costs associated with the construction a spare satellite (hundreds of millions of dollars), which if not launched within a relatively short period of time following its manufacture, will require costly storage and maintenance or replacement of certain subsystems to insure flightworthiness, and within a few years, may no longer be viable for launch into orbit following the expiration of key space-qualified component/system warranties. Taking into account the number of GSO and LEO MSS satellite systems successfully deployed or in development to date, coupled with the relatively limited risk of catastrophic failure of in-orbit satellite systems and the availability of alternative capacity options for MSS/ATC service providers, it seems that the Commission's spare satellite requirement may actually be counterproductive to the goal of attracting additional investment, and stimulating innovation, for complementary MSS/ATC and terrestrial broadband services by unnecessarily tying up funds that may be otherwise usefully invested to develop the wireless broadband ecosystem.

Further, to enable the widest offering of vital broadband services, MSS licensees and their lessees should have the flexibility to offer broadband wireless devices that do not all rely on specific chipsets or other parts that may impact the competitiveness or desirability of the products they want to offer. Allowing the deployment of combinations of satellite, integrated, and terrestrial-only devices and services to meet market demands will lead to more efficient service offerings, and will ultimately lead to the best and widest selection of services to consumers. Removal of inefficient or unnecessary gating criteria will also streamline the process

for introducing new products in MSS/ATC and other broadband networks. For example, with the adoption of the Commission's proposed co-primary fixed and mobile allocation in the 2 GHz band, licensing of all devices and equipment would not need to be tied to the process of modifying the MSS licensees' satellite authorizations or earth stations. Instead, a co-primary terrestrial allocation and appropriate service rules would enable the introduction of handsets attractive to strategic partners investing in the undertaking by simple certification that they meet the Commission's emissions requirements. Together with use of internationally standardized terrestrial technologies which also have well defined certification processes, consumers will be well served by the availability of a range of options for terrestrial and satellite-enabled services and devices.

As recognized by the Commission, ATC operations can vastly increase spectrum efficiency without putting at risk the critical communications services provided via MSS infrastructure.[27] Allowing existing MSS licensees the added flexibility of a co-primary terrestrial allocation in the 2 GHz MSS band as proposed in the *NPRM* will lead to investment and stimulate the development and deployment of wireless broadband services, including associated hardware and content. Removing the perceived regulatory obstacles to terrestrial broadband use will more likely support strategic partnerships and investment. Investment will increase as investors become more comfortable with the near-term, realizable prospects of satisfying the criteria required for operating and generating revenue.

[27] "At the same time, we note that Harbinger's proposal will not diminish SkyTerra's MSS coverage and may even increase it in certain areas. SkyTerra's MSS capacity also will be increased significantly by virtue of its next generation satellite to be launched this year." *SkyTerra Communications, Inc., Transferor and Harbinger Capital Partners Funds, Transferee*, Memorandum Opinion and Order and Declaratory Ruling, 25 FCC Rcd 3059, ¶ 68 n.178 (IB/ OET/WTB 2010).

B. The Commission Should Reject Calls for Reduction in MSS Use

Adding a co-primary terrestrial allocation to the 2 GHz MSS band should not be considered groundwork for the reallocation of the spectrum away from MSS use. As discussed in the record, 2 GHz MSS operators have invested billions of dollars to enable terrestrial broadband services in the MSS bands while also enabling ubiquitous advanced satellite communications. For the same reasons that several commenters state that the 2 GHz MSS band in particular is ideal for terrestrial broadband, DBSD agrees and adds that it is also ideal for advanced satellite communications (as well as terrestrial broadband) because international harmonization and use will lead to equipment savings and scalability.[28] Additionally, the band's adjacency to AWS spectrum additionally allows synergies in services and build-out.[29] Existing terrestrial infrastructure and devices provide a basis to more easily adapt new equipment to this band, and manufacturers have the ability to develop products which span multiple bands including S band. As a testament to this capability, Qualcomm began development of the 8600 RF chip, which today supports the S band, on its own initiative and prior to any investment from DBSD or other MSS licensees. In addition, future potential for harmonization of operations with AWS-2 and AWS-3 band usage can help achieve economies of scale.[30] The Commission also can undertake near-term actions to create regulatory certainty and facilitate commercial use of certain frequency bands. For example, the J Block service rules can be aligned with the 2 GHz MSS/ATC services to enable more opportunities to attract new investment and promote utilization of new mobile broadband networks.[31]

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[28] "As a result, the spectrum could be used easily by new or existing service providers to provide innovative terrestrial mobile broadband services, whether on a stand-alone basis or in conjunction with other AWS, PCS, or MSS ATC operations." *See* Comments of T-Mobile at 3.

[29] "This effort has been facilitated by the spectral location of the 2 GHz S band relative to European 3G bands. The S band is close enough to terrestrial UMTS bands to enable off the

C. Voluntary Incentive Auctions Could Be Considered Among Other Options

As the Broadband Plan recognizes, a key role of the Commission is to identify and make available spectrum suitable for wireless broadband. Identification and reallocation or reassignment of spectrum traditionally has been a long-term process requiring substantial time and Commission resources. However, the Broadband Plan acknowledges that the spectrum crunch is only a few short years away. Therefore, to address this issue in a timely manner, the Commission should move quickly to accelerate broadband deployment by removing barriers to utilizing and investing in spectrum to provide MSS/ATC and complementary terrestrial broadband and enhanced services.

As discussed in Section IV(A) above, removing regulatory obstacles is perhaps the most effective option that is immediately available to the Commission. As the Broadband Plan discussed, voluntary incentive auctions also could provide the Commission with a valuable spectrum management tool and could be structured to provide spectrum allocations that respond to changing markets.[32]

For those auctions to succeed, however, it is important that the parties, both buyers and sellers, have a clear understanding of the rules that will govern the use of the spectrum as far in

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shelf UMTS transceiver chips or base station RF modules to be more easily rebanded." *See* Comments of TerreStar at 16 n.34.

[30] DBSD's ATC authorization and related waivers allow for AWS-like service rules. *See New ICO Satellite Services G.P.*, Order and Authorization, 24 FCC Rcd 171, ¶ 40 (IB 2009) ("As a general matter, we conclude that, insofar as the requested waivers would not result in harmful interference and would comport with the Commission's established requirements for comparable terrestrial services, granting the waivers will serve the public interest by enabling [DBSD] to operate more efficiently and provide more valuable service.")

[31] For example, "the AWS-2 'J Block' spectrum could be integrated with 2 GHz MSS spectrum to attract new investment and promote utilization of new mobile broadband networks." *See* Comments of CTIA at 14.

[32] *See NPRM/NOI* ¶ 28; Broadband Plan at 81-82.

advance as possible. Regulatory uncertainty would lead to inefficiency in the auction. The Broadband Plan asks Congress to act expeditiously to grant incentive auction authority to the Commission, and several bills doing so have been introduced. As the Commission awaits Congressional action, however, it should equally act expeditiously to remove costly and unnecessary barriers to investment in the MSS bands, including adopting the *NPRM* proposals and initiating further proceedings to relax certain ATC gating criteria. Otherwise, there is a risk that the rules will not be finally established prior to the parties making their plans for participation in the auction.

As the Broadband Plan noted, spectrum planning and coordination is a long-term process. The parties require clarity as soon as possible, however, to make appropriate plans. In the same way that the Commission will emphasize to Congress that delays in providing spectrum auction authority will delay critical reallocations of spectrum to meet new demands, the Commission itself must move expeditiously to remove obstacles to utilizing spectrum. Only by acting quickly will the Commission send an unmistakable signal to Congress and others that it is doing everything it can to prevent the "spectrum crunch" that the Chairman has discussed.[33] In considering all options available to advance the objectives of the Broadband Plan to maximize spectrum value, enhance investment and innovation, and accelerate broadband use of MSS spectrum, the Commission should commence further proceedings as expeditiously as possible.

[33] *See, e.g.,* Julius Genachowski, Chairman, FCC, Statement on Obama Administration's Wireless Broadband Initiative (June 28, 2010).

V. CONCLUSION

Based upon the foregoing, DBSD urges the Commission to adopt its proposals to (1) apply the secondary market leasing framework, including spectrum manager and *de facto* leasing, to terrestrial use of MSS spectrum; and (2) add co-primary terrestrial fixed and mobile allocations to the 2 GHz MSS band. Nearly all commenters representing a diverse array of interests recognize the substantial public interest benefits of both proposals and support their immediate adoption. Specifically, commenters generally agree that extending secondary market leasing rules to MSS spectrum leasing for terrestrial services will enhance spectrum efficiency, accelerate mobile broadband deployment, and provide regulatory certainty. Commenters also generally agree that adding terrestrial allocations to the 2 GHz MSS band will provide for globally harmonized spectrum (along with the resulting economies of scale and other public interest benefits) and lay the groundwork for additional future investment in and use of MSS spectrum.

Furthermore, DBSD urges the Commission to initiate further proceedings expeditiously to accelerate broadband deployment and capital investment by eliminating additional regulatory barriers and enhancing flexible use of MSS spectrum. These proceedings should include modifying ATC gating restrictions that serve as regulatory barriers to broadband deployment, and providing for voluntary incentive auctions. At the same time, the Commission immediately should reject as counterproductive proposals seeking to reallocate MSS spectrum or to maintain

existing or imposing additional regulatory obstacles or restrictions on MSS spectrum use. Those proposals will not achieve the Commission's twin objectives to ensure the development of robust MSS capabilities and increased spectrum availability for mobile broadband networks.

Respectfully submitted,

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